

AG Contract No. KR03-0157TRN
ADOT ECS File No.: JPA 02-186
Project: STP*326-(012)A
TRACS No.: 260 YV 208 H3868 03C
Section: SR 260, Camp Verde Segment
FS Agreement No. 04-CO-11030900-390
BUDGET SOURCE ITEM No.: 14202

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE PRESCOTT NATIONAL FOREST

THIS AGREEMENT is entered into 15 December, 2003, pursuant to Arizona Revised Statutes, Section 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the PRESCOTT NATIONAL FOREST, ("the Forest Service") acting by and through its Forest Supervisor.

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The Forest Service is empowered by the Cooperative Funds Act of June 30, 1914, 16 U.S.C. 498 and the Intergovernmental Cooperative Act of 1968, Title III, 31 U.S.C. 6501-6508, Pub. L. 90-577, as amended, Pub. L. 97-258, September 13, 1982, and has delegated to the undersigned the authority to execute this agreement on behalf of the Forest Service.

3. Incident to a roadway improvement project on SR-260 between I-17 and Verde River contemplated by the State, a portion of the work will impact lands owned, controlled or under the jurisdiction of the United States Army Corps of Engineers (USACE). The USACE requires mitigation of the area lands by replacing habitat, and to meet that requirement the State and the Forest Service desire to participate in the acquisition, enhancement, management and maintenance of land suitable for the habitat replacement, a lump sum amount, not to exceed \$11,000.00, all at the State's expense, herein referred to as the "Project".

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 26484
Filed with the Secretary of State
Date Filed: 12/15/03
Genie K. Brewer
Secretary of State
By: Timothy J. Greenwald

II. SCOPE OF WORK

1. The Forest Service will:

a. Be the lead agency for the Project, conduct all necessary studies and investigations towards determining the most appropriate site for the mitigation. Utilize the funds to best implement erosion control work in the river access points by the most efficient means possible. This will include, but not be limited to, force account work, volunteer groups, contractors and organized work groups. Materials purchased will be limited to that which will be installed in the sites to accomplish the stated purpose. Document costs and work accomplished by photographic record. The Forest Service will combine the \$11,000.00 in-lieu fees for mitigation related to the removal of trees within jurisdictional waters at the Verde River near SR 260.

b. The Forest Service shall determine the priorities of work and best method to implement erosion control in the river access points by most efficient means possible.

c. Invoice the State prior to commencement of work for the cost of the mitigation effort, a lump sum amount, not to exceed \$11,000.00 (which includes the overhead cost assessment at the rate of 19.5%). Funding will be used to control erosion by reducing river access by vehicles, rebuilding or relocating trails and access for pedestrians that are eroding or allowing erosion directly into the Verde River. See attached Cost Estimate.

d. Deposit all cash funds received under the terms of this Agreement to a Forest Service Cooperative Work Fund to be used for the purpose for which contributed, including related overhead expenses.

e. Maintain the site and achieve all the conditions of the USACE permit on behalf of the State and the Forest Service.

2. The State will:

Within 30 days after receipt and approval of an invoice, pay the Forest Service an amount not to exceed \$11,000.00 (which includes the overhead cost assessed at the rate of 19.5%) as the cost of the mitigation effort for the Project. If payment is not received by the date specified on the Form FS-6500-89, Bill for Collection, the Forest Service shall exercise its rights regarding the collection of debts owed the United States.

III. MISCELLANEOUS PROVISIONS

1. This agreement is considered executed by the parties as of the last date shown below and shall become effective upon filing with the Arizona Secretary of State.

2. This agreement expires no later than December 31, 2004, at which time it is subject to review, renewal, or expiration. Either party may terminate this agreement at any time before the date of expiration, upon 30 days written notice to the other party.

3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511 as regards conflicts of interest on behalf of state employees.

4. The provisions of Arizona Revised Statutes Section 35-214 pertaining to audit are applicable to this contract.

5. Applicable laws and regulations of the State and the Federal government shall govern the rights of the parties with respect to the performance of this agreement. In the event of any controversy, which may arise out of this agreement, the parties hereto agree to select a process acceptable to the State and the Forest Service to resolve such disputes. Such process shall follow 9 U.S.C. Title 9 - Arbitration if arbitration is necessary to resolve such disputes.

6. No member of, or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this agreement, or to any benefits that may arise therefrom; but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

7. This agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona, and incorporated herein by reference regarding "Non-Discrimination".

8. Non-Availability of Funds. Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph. Full credit shall be allowed for each party's expenses and all non-cancelable obligations properly incurred up to the effective date of termination.

9. Any information furnished to the Forest Service under this instrument is subject to the Freedom of Information Act (5 U.S.C. 552).

10. Modifications within the scope of the instrument shall be made by mutual consent of the parties, by the issuance of a written modification, signed and dated by all parties, prior to any changes being performed. Neither party is obligated to fund any changes not properly approved in advance.

11. Improvements placed on National Forest System land at the direction of either of the parties, shall thereupon become property of the United States, and shall be subject to the same regulations and administration of the Forest Service as other National Forest improvements of a similar nature. No part of this instrument shall entitle the State to any share or interest in the project other than the right to use and enjoy the same under the existing regulations of the Forest Service.

12. This instrument in no way restricts the Forest Service or the State from participating in similar activities with other public or private agencies, organizations, and individuals.

13. It is understood by the parties, that contributions made to the Forest Service by the State under this agreement does not constitute endorsement by the Forest Service of the State's overall project activities.

14. The principal contacts for this instrument are:

State Project Contact

Jim Rindone
Arizona Department of Transportation
205 S. 17th Avenue, MD 619E
Phoenix, AZ 85007
Phone: 602-712-8246
FAX: 602-712-3066
E-Mail: jrindone@dot.state.az.us

Forest Service Project Contact

William Cook
Prescott National Forest
344 S. Cortez Street
Prescott, AZ 86303
Phone: 928-443-8071
FAX: 928-443-8008
E-Mail: wcook@fs.fed.us

State Administrative Contact

Lynn A. M. Grandy
 Joint Project Administrator
 Arizona Department of Transportation
 Engineering Consultants Section
 205 S. 17th Ave., MD 616E
 Phoenix, AZ 85007
 Phone: 602-712-8088
 FAX: 602-712-7424
 E-Mail: lgrandy@dot.state.az.us

Forest Service Administrative Contact

Pamela Schiele
 Budget and Fiscal
 Prescott National Forest
 P. O. Box 9120
 Prescott, AZ 86313
 Phone: 928-443-8216
 FAX: 928-443-8208
 E-Mail: pschiele@fs.fed.us


15 Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

16 By signature below, the cooperator certifies that the individuals listed in this document as representatives of the cooperator are authorized to act in their respective areas for matters related to this agreement.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

STATE OF ARIZONA


Dept. Of Transportation

 12/8/03

 SUSAN TELLEZ DATE
 Contract Administrator

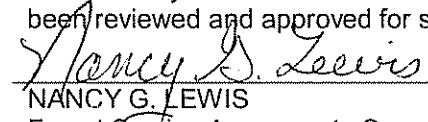
USDA FOREST SERVICE

PRESCOTT NATIONAL FOREST

 10 Nov 03

 MICHAEL R. KING DATE
 Forest Supervisor

The authority and format of this instrument as
 been reviewed and approved for signature.

 11/10/03

 NANCY G. LEWIS DATE
 Forest Service Agreements Coordinator

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 FOR FOREST SERVICE USE ONLY

Agreement #:	04-CO-11030900-390
Spending Limit for FY03:	\$11,000
Burden (overhead rate):	19.5%
Job Code:	
Billing Frequency (advance lump sum, monthly, quarterly, semi-annual, annual):	Advance Lump Sum
If Federal, Agency Location Code:	
Program Manager and Phone #:	Bill Cook, 928-443-8071
Termination Date:	December 31, 2004

COST ESTIMATE

Sheep's Crossing - Build Trail using YCC Crew:

5 crewmembers X \$5.15/hour = \$25.75/hour X 8 hours/day =
\$206.00/Day X 4 days = \$ 824.00

1 crewleader X \$12.31 /hour = X 8 hours/day = \$98.48 X 4 days = \$ 393.92
Subtotal = \$ 1,217.92

**Prairie Lane – Reconstruct a Section of Trail and Replace
Wooden Posts:**

5 crewmembers X \$5.15/hour = \$25.75/hour X 8 hours/day =
\$206.00/Day X 4 days = \$ 824.00

1 crewleader X \$12.31 /hour = X 8 hours/day = \$98.48 X 4 days = \$ 393.92
Subtotal = \$ 1,217.92

Skidmore - Replace Wooden Posts:

5 crewmembers X \$5.15/hour = \$25.75/hour X 8 hours/day =
\$206.00/Day X 3 days = \$ 618.00

1 crewleader X \$12.31 /hour = X 8 hours/day = \$98.48 X 3 days = \$ 295.44
Subtotal = \$ 913.44

Black Canyon - Replace Wooden Posts:

5 crewmembers X \$5.15/hour = \$25.75/hour X 8 hours/day =
\$206.00/Day X 3 days = \$ 618.00

1 crewleader X \$12.31 /hour = X 8 hours/day = \$98.48 X 3 days = \$ 295.44
Subtotal = \$ 913.44

Agreement Oversight and Documentation –

Salary (Bill Cook) \$ 350.00

LABOR TOTAL (Not to Exceed) = \$ 4,605.00

Materials:

200 Posts x \$23 ea.= \$ 4,600.00

Indirect Costs (19.5%) \$ 1,795.00

COST ESTIMATE TOTAL = \$ 11,000.00



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TERRY GODDARD
ATTORNEY GENERAL

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE: 602.542.8855

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR03-0157TRN (JPA 02-186), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED December 10, 2003.

TERRY GODDARD
Attorney General

A handwritten signature in cursive script, reading "Susan Davis", written over a horizontal line.

SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

/ss

att.